

**APPROVED MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
March 10, 2004

MEMBERS

Nicholas F. Barba
John R. Davis
Frederick W. Harvell
Alexander T. Hamilton
Robert D. Heavner
Alfred E. Ptasznik, Jr.
Andrew A. Simasek

CALL TO ORDER

Chair Andrew Simasek called the regular meeting to order at 7:00 p.m.

ROLL CALL

The roll was called and all members were present. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, and Amy Parker.

REMARKS

Chair Simasek remarked that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

CITIZEN COMMENTS

There were no citizen comments.

APPROVAL OF MINUTES

Mr. Barba moved to adopt the minutes of the regular meeting of February 11, 2004 and on roll call, they were adopted unanimously.

PUBLIC HEARINGS

Application No. ZM-82-04 (conditional), Seaford Scallop Co., Inc: Request to amend the York County Zoning Map by reclassifying an approximately 1.8-acre portion of a 3.32-acre parcel of land located at 413 Shirley Road (Route 626), approximately 262 feet east of the intersection of Shirley Road and Ironmonger Lane (private), from RR (Rural Residential) to WCI (Water-oriented

Commercial/Industrial) subject to conditions voluntarily proffered by the property owner. The property is further identified as Assessor's Parcel No. 25-27B. Proffered conditions address extension of an existing pier, landscaping, fencing, outdoor lighting, noise, signage, utilities, limitations on public road access, and the prohibition of certain uses. The Comprehensive Plan designates this property for Limited Business.

Mr. Tim Cross, Principal Planner, summarized the staff report, in which the staff recommended approval. He noted that the intent of the Comprehensive Plan in designating the subject property for Limited Business is to recognize the applicant's existing facilities on Shirley Road.

Chair Andrew Simasek opened the public hearing.

Conway H. Sheild, III, Esq., Jones Blechman Woltz & Kelly, P.C., 701 Town Center Drive, Newport News, stated his client is supportive of the staff conclusion. He explained that approval would afford the applicant the additional docking area required to abide by recent federal regulations decreasing the number of days boats can be at sea. He said the business would operate the same as it has in the past. He requested that Mr. Bill Ellen be permitted to conclude the applicant's presentation upon his arrival.

Mr. John Pandolf, 101 Ironmonger Lane, said he had reviewed the plan and had several concerns. **Mr. Pandolf** asked if York County had a method of monitoring the applicant's number of employees. If the number of employees or heavy equipment traffic were to increase, the ability of Shirley Road to handle the increase in traffic would be compromised, he said, adding that congestion is already a problem near the terminus of Shirley Road.

Mr. Pandolf wanted to know about security on the applicant's property and specifically how security lighting would affect the adjoining properties.

He wondered if the applicant would consider installing a separate dock for public fishing.

Ms. Barbara Zeno, 110 Ironmonger Lane, lives adjacent to the applicant's property. She asked the applicant to consider the noise levels and remember the neighbors want peace and quiet early and late in the day. She also wanted assurance the applicant's property that is not part of this rezoning request remain Rural Residential.

Mr. Aaron Zeno, 110 Ironmonger Lane, described the applicant, Mr. Wells, as a good neighbor who provided ice for the neighborhood after the Storm Isabel. Mr. Zeno was not opposed to the rezoning as requested, but he voiced concern about a possible increase in the number of employees for the subject business, the lack of improvements to Shirley Road, the direction and level of additional lighting, and noise from docked boats early in the morning.

Mr. Bill Wells, III, 109 Kings Grant Drive, General Manager, Seaford Scallop Company, responded to some of the neighbors' concerns. He said the operating hours are from 7 a.m. to 4 p.m., occasionally as late as 6 p.m. The heaviest trucking days generally are Tuesdays

and Thursdays, with no significant truck traffic entering or leaving the business site on other days. He said it is important to him for the rest of the property to remain residential and he does not intend to change that. It provides a buffer between his business and the neighbors. He plans to place dredging spoils on his acres to the east. He has no plans for a marina.

Mr. Bill Ellen, William B. Ellen, Inc., Gloucester, showed a plan to the Commissioners depicting the 3.4-acre parcel without the line that would separate the residential from the business uses and indicating the bottom of the dredge cut. He described the method for dredging and the average 3.5 ft level of the spoil material once it is placed on the property. There is adequate space to retain the material safely, he added. **Mr. Ellen** said the plan is to temporarily stockpile the spoil material before selling or giving it away and return the lot as close as possible to its natural slope.

Mr. Ptasznik asked Mr. Ellen if he had been involved in dredging at other piers, and if so, where the spoils were placed. **Mr. Ellen** said he had, and the spoils were placed temporarily on land.

Chair Simasek closed the public hearing.

Mr. Simasek asked about the direction of additional lighting. **Mr. Cross** said the lights will be pointed downward, that the staff suggested a more restrictive standard in this particular instance than is usually recommended for commercial/industrial sites.

Mr. Simasek asked if the County will monitor the number of employees working for the applicant, and **Mr. Cross** noted there is no mechanism for the County to monitor staffing levels but if neighbors note an increase in traffic, for instance, they could report that and trigger an inspection of staffing levels. The County relies on community monitoring, especially in residential areas, he noted.

Mr. Simasek asked about a public dock. **Mr. Carter** said that when the Virginia Department of Transportation relinquished the dock the applicant indicated a willingness to provide some public dock space, but that was not a requirement of VDOT's abandonment, the County has not pursued it.

Mr. Hamilton said getting into the property seems to be a challenge and there are no plans to improve Shirley Road. **Mr. Cross** replied that truck traffic is not expected to increase because of this application.

Mr. Barba said the members of the Wells family have been unusually good neighbors, particularly after Storm Isabel, and good corporate citizens. There is no reason to doubt the application would involve anything other than exactly what has been proposed. He favored approval.

Mr. Harvell said he visited the applicant's operation and was very impressed with the property, building maintenance, docking and safety systems, and the general operation. He appreciated the respect for the property and waterways that was reflected in the operation.

Mr. Davis moved adoption of Resolution PC 04-5.

PC04-5

On motion of Mr. Davis, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO RECLASSIFY APPROXIMATELY 1.8 ACRES OF LAND LOCATED AT 413 SHIRLEY ROAD FRM RR (RURAL RESIDENTIAL) TO WCI (WATER-ORIENTED COMMERCIAL/INDUSTRIAL)

WHEREAS, Seaford Scallop has submitted Application No. ZM-82-04 (conditional) requesting to amend the York County Zoning Map by reclassifying from RR (Rural Residential) to WCI (Water-oriented Commercial/Industrial) an approximately 1.8-acre portion of a 3.32-acre parcel of land located at 413 Shirley Road (Route 626) and further identified as Assessor's Parcel No. 25-27B, subject to conditions voluntarily proffered by the property owner; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of March, 2004, that Application No. ZM-82-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying an approximately 1.8-acre portion of a 3.32-acre parcel of land located at 413 Shirley Road (Route 626), further identified as Assessor's Parcel No. 25-27B and more fully described as the area designated "PROPOSED ZONING WCI" on the "Concept Plan Showing Proposed Zoning Amendment" prepared by Davis & Associates, P.C. and dated January 20, 2004, a copy of which shall remain on file in the Planning Division. The property is more fully described and identified as follows:

All that certain lot, piece or parcel of land situate, lying and being in the County of York, Virginia, containing 1.83+ acres, described as follows:

Commencing at an iron pipe found on the northerly right of way line of Shirley Road, State Route 626, and the common boundary corner of the property of Seaford Scallop Co., Inc. and the property of Robert W. Wilson, thence from the point thus established N 77° 08' 13" E, 150.00' (feet) to a point being the point and place of beginning. Thence from the point and place of beginning thus established N 12° 15' 00" W, approximately 423' (feet) to the mean low water mark of Back River, thence in an easterly direction approximately 222' feet along the low water mark of Back Creek to

the property of Wells Ice and Cold Storage; thence S 07° 20' 30" E, approximately 439' (feet) to a point on the northerly right of way line of Shirley Road, State Route 626; thence S 77° 08' 13" W, 183.00' (feet) to an iron pipe being the point and place of beginning.

It is intended that all riparian rights vested in the parent tract be transferred with the parcel described above.

BE IT FURTHER RESOLVED that the Planning Commission recommends that approval of the above-mentioned application be subject to the conditions set forth in the proffer statement titled "Proffer Statement for Change of Zoning," signed by William S. Wells, Jr., and dated February 24, 2004, a copy of which shall remain on file in the Planning Division.

Application No. ZT-83-04, York County Board of Supervisors: Request to consider amendments to the York County Zoning Ordinance (Chapter 24.1, York County Code) to revise Section 24.1-327(b) of the YVA – Yorktown Village Activity District regulations to allow the construction of new single-family detached residences, or additions thereto, as a matter-of-right subject to compliance with the following dimensional standards: Front Yard – 25 feet; Side Yard – 10 feet; Rear Yard – 20 feet; and Maximum Building Height – 35 feet, and provided further that proposed single family residences not meeting these minimum standards could be authorized by the Board of Supervisors in accordance with the procedures applicable to requests for Special Use Permits.

Mr. Mark Carter, Assistant County Administrator, summarized the staff report dated March 2, 2004, and explained that the application was sponsored as a companion action when the Board of Supervisors adopted the Yorktown Historic District and Yorktown Design Guidelines in December, which will become effective on June 1, 2004. This processing of this application is timed so that these proposed amendments can be made effectively concurrently.

Mr. Ptasznik expressed confidence the provisions in the application captured the spirit and intent of the Yorktown Design Guidelines and earlier discussions about any possible subdivisions in the village of Yorktown, and recommended swift approval.

Mr. Hamilton moved adoption of Resolution PC04-6.

PC04-6

On motion of Mr. Hamilton, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-83-04 TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO REVISE SECTION 24.1-327(b) OF THE YVA –

YORKTOWN VILLAGE ACTIVITY DISTRICT REGULATIONS TO ALLOW THE CONSTRUCTION OF NEW SINGLE-FAMILY DETACHED RESIDENCES, OR ADDITIONS THERETO, AS A MATTER OF RIGHT AND TO ESTABLISH A PROCEDURE FOR BOARD OF SUPERVISORS' APPROVAL OF ANY SUBDIVISION PROPOSAL IN THE YVA DISTRICT

WHEREAS, in accordance with Section 24.1-327(b) of the Zoning Ordinance, any new single family detached residential construction or substantial additions in the YVA District are subject to review and approval by the Planning Commission and Board of Supervisors, and minor additions are subject to review by the Board; and

WHEREAS, given the adoption of the Yorktown Historic District and Design Guidelines, such single family construction or additions can be appropriately and adequately reviewed by the Historic Yorktown Design Committee and permitted as a matter of right, subject to compliance with certain minimum setback and yard requirements; and

WHEREAS, in the interest of good zoning practice, the Board of Supervisors has sponsored an application to amend Section 24.1-327(b) to establish such an approval process; and

WHEREAS, said application has been referred to the Planning Commission for review and public hearing in accordance with applicable procedures; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has carefully considered the input provided by the public and the staff.

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this 10th day of March, 2004, that it does hereby recommend approval of Application No. ZT-83-04 to amend section 24.1-327(b) of the York County Zoning Ordinance to establish an approval process for single-family detached dwellings, and additions thereto, in the YVA District that does not require review by the Planning Commission and Board of Supervisors and to establish a requirement for Board of Supervisors' approval of any subdivision proposal within the YVA district, said amendments to read as follows:

Sec. 24.1-327. YVA-Yorktown village activity district.

(b) *Special procedural requirements.*

- (1) The use of any land or building within the YVA district on the date of the inclusion of such property in the district may either continue to be used for its then existing purpose or may thereafter be changed, but only in accordance with all applicable regulations, to accommodate any of the land uses listed in section 24.1-327(c), any provisions of article VIII, Nonconforming Uses, of this chapter to the contrary notwithstanding.
- (2) Any proposed new use, other than single-family detached dwellings, shall be approved only by the board of supervisors in accordance with the procedures for special use permits in section 24.1-115 of this chapter. Permitted land uses shall be those listed in section 24.1-327(c).

- (3) With the exception of single family detached dwellings, the proposed enlargement or extensions of any use in this district which would result in an increase of less than twenty-five percent (25%) in either total lot coverage or floor area may be authorized, without public hearing, by resolution of the board. Proposed enlargement or expansion of any use, other than a single-family detached dwelling, that would result in an increase of twenty-five percent (25%) or more in either total lot coverage or floor area shall be subject to approval in accordance with the procedures for special use permits.
- (4) Proposed changes in use of land, buildings or structures within the district may be approved by the zoning administrator upon a determination that the proposed new use is similar in type, size, scope and intensity to the previous use and that it is one of permitted uses listed in subsection (c) below. Where, in the opinion of the zoning administrator, such similarities do not exist, the proposal shall be subject to review and approval in accordance with the procedures for special use permits specified in section 24.1-115 of this chapter.
- (5) The construction of new single-family detached dwellings, or the enlargement of existing single-family detached dwellings, shall be permitted as a matter of right provided that the proposed location is not within one of the areas specifically designated for commercial development by the adopted Yorktown Master Plan and that the following setback and dimensional requirements are observed, and provided that all applicable requirements and procedures set out in the Yorktown Historic District Overlay (Section 24.1-377) are observed.

Front Yard	Twenty-five feet (25')
Side Yard	Ten feet (10'), five feet (5') for accessory buildings
Rear Yard	Twenty feet (20'), five feet (5') for accessory buildings
Building Height	Thirty-five feet (35')

- (6) Applications for approval of new single family detached residences, or additions to existing single family detached residences, which do not comply with the above noted minimum dimensional standards shall be referred to the Planning Commission and Board of Supervisors in accordance with the same procedures applicable to requests for special use permits.
- (7) Any proposed subdivision of a lot or parcel in the YVA District shall be referred to the Planning Commission and Board of Supervisors for review and action in accordance with the same procedures applicable to requests for special use permits.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. Tim Cross presented the draft York County Capital Improvements Program (CIP) for Fiscal Years 2005-2010. He noted the CIP projects that were added since last year and, upon advance review by the staff, recommended Commission certification of its conformity with the Comprehensive Plan as required by Section 15.2-2232, Code of Virginia.

There were questions related primarily to the impact on the County by Storm Isabel and the method of budgeting for fire fighting apparatus. **Mr. Cross** addressed all the questions. **Mr. Carter** then explained the County tracks capital items for several years, budgeting an amount for each of those years, and is responsible for maintaining enough money to pay for items in the final year in which they are budgeted. He added it is a budget "of when we are going to spend, not when we're going to acquire."

Mr. Barba moved adoption of Resolution PC04-7.

PC04-7

On motion of Mr. Barba, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO CERTIFY CONFORMANCE OF THE PROPOSED YORK COUNTY CAPITAL IMPROVEMENTS PROGRAM FOR FY 2005-2010 WITH THE YORK COUNTY COMPREHENSIVE PLAN

WHEREAS, Section 15.2-2232 of the Code of Virginia requires public facilities to be substantially in accord with the local comprehensive plan; and

WHEREAS, pursuant to Charting the Course to 2015: The County of York Comprehensive Plan, the York County Planning Commission has been requested to review the Capital Improvements Program for conformance with the Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of March, 2004, that it does hereby certify the York County, Virginia Proposed Capital Improvements Program for Fiscal Years 2005-2010 as being in conformance with Charting the Course to 2015: The County of York Comprehensive Plan.

COMMITTEE REPORTS

Mr. Simasek reported the Regional Issues Committee is undertaking a long-term study on resources available for tourism in the Yorktown/James City/Williamsburg area and how best to utilize them to support tourism.

Mr. Barba reported that the Route 17 Revitalization Committee met in February and said the Committee's recommendations are being considered; another meeting will be held with automobile salvage yard owners. He added that Mr. James Noel, Director of Economic Development, made a presentation to the business community about the Committee's work at the recent Industrial

Development Authority business breakfast. Mr. Carter added that a number of salvage yard operators had met with the Committee to discuss landscaping and other issues.

Mr. Simasek commended Mr. Barba and the members of the Route 17 Revitalization Committee for their accomplishments.

COMMISSION REPORTS AND REQUESTS

There were no reports and requests.

STAFF REPORTS

Mr. Carter reported on recent Board actions.

Mr. Carter named the appointed members of the Historic Yorktown Design Committee to be Nancy Laurier, Robert "Chuck" Murray, and Harvey Weinstein.

FUTURE BUSINESS

Mr. Carter advised of future business of the Commission.

ADJOURN

Chair Simasek called adjournment at 8:12 p.m.

SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/s/_____
Andrew A. Simasek, Chair

DATE: April 14, 2004